SPEECH

OF

HON. A. BIRDSALL, OF NEW YORK,

DELIVERED IN THE HOUSE OF REPRESENTATIVES, JULY 24, 1848,

On the power of Congress to legislate in regard to the domestic concerns of the people of the Territories of the United States.

The House having under consideration the President's Message in relation to the Military Government of the Territory acquired from Mexico, by the late Treaty of Peace—

Mr. BIRDSALL said:

Mr. SPEAKER: Leaving the President of the United States to vindicate the Administration, in its action relating to the military government of the territory acquired by us from Mexico, during the war, (which he has done so triumphantly in his message just read,) I propose to submit some general remarks upon the subject of the powers and duties of the General Government in relation to the civil government of our territories, and its authority to legislate for them. To that question, and to such other matters as I may deem pertinent to the subject, I shall ask the attention of the House.

I believe I express a sentiment which prevails extensively, in saying that the proper and just disposition of this question is of great importance to the integrity and well-being of this Union. As republicans, sincerely attached to that Union, and desiring a perpetuity of its blessings, we should approach its settlement in that spirit of conciliation which marked the better days of the Republic, and with an earnest desire so to dispose of it as to meet the approbation of the whole country. I hope it may be so settled, and that speedily.

I do not propose, Mr. Chairman, in the remarks I am about to make, to enter into an elaborate argument upon the questions involved in the ordinance of 1787, or of the Wilmot proviso, so called, or to discuss at length the principles which should govern Congress in its legislation in regard to the organization of Territorial Governments. All these questions have been fully discussed by many of our most distinguished and experienced statesmen; and I am not so vain as to suppose that any argument of mine would throw additional light upon the subject. I shall therefore content myself with stating briefly the "platform" upon which, as a Northern Democrat, I am prepared to stand.

The true principles which should, in my judgment, govern Congress in its legislation on the subject of slavery, are those of non-interference, whether in the States or Territories; and a reference of "all rightful subjects of legislation" to the people of the Territories, to be settled and disposed of by them, at such time and in such manner as is authorized by the Constitution, through their own local Legislatures. I would adopt this course of policy, because it accords with the spirit of the Constitution, and because it is based upon the "great cardinal principle of freedom—the capacity of man for self-government."

Besides, the doctrine of restrictive legislation, generally absurd, is, in this case, of questionable authority, and must, in any event, be short-lived in its operation.

The principle of non-intervention by the General Government accords with the spirit of the Constitution.

We all admit that this is a Government of limited and defined powers. As national legislators, our guide and only warrant is the Constitution, and we should tread cautiously within the boundaries it prescribes.

Were the question now presented an original one, it is questionable whether a member of this House could be found, who, upon the reading of the Constitution, would insist that the Convention which framed it, intended to clothe Congress with the power of legislation over the domestic affairs of the people of the Territories by the following clause:

"The Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States."

The plain and common-sense interpretation of this clause would seem to be, that the authority of Congress related only to the care and disposition of the territory as property—for the words are, "territory or *other property*." This view of the subject is strengthened, and, it strikes me, made conclusive by an examination of another clause of the Constitution, by which the power of legislation is given in express terms over the District of Columbia, &c. It reads as follows:

"The Congress shall have power *to exercise exclusive legislation, in all cases whatsoever*, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."

It has been well said by my honorable friend from Virginia, [Mr. BAYLY,] in his elaborate and conclusive argument upon this subject, "that when 'the Convention which framed the Constitution 'designed to confer powers of legislation, it used 'appropriate language to convey its meaning."

It will be observed, that the clause giving powers of legislation includes not only the District of Columbia, but also *all places* purchased by the Government for the erection of forts, magazines, arsenals,

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dock-yards, and other needful buildings: in short, conferring upon Congress powers of legislation, in direct and explicit language, over all such *places* as the Convention deemed it proper that Congress should exercise that power, and where, and only where, in my judgment, it intended it should be exercised. The clause relating to the territory or other property belonging to the United States, had reference to such territory or other property, as *property, wherever it might be.* Had the Convention intended to clothe Congress with the same powers of legislation in the Territories that it gave to it over the District of Columbia, and the other places named, is it not reasonable to suppose that it would have used the same or similar language in doing so? I cannot bring my mind to believe that the Convention, after having given to Congress, in *express terms*, the power to legislate for this District, and certain other places, naming them, intended to leave the same powers of legislation, if it really designed to confer them, to be *spelled out, guessed at, construed out, or implied*, from a clause clearly intended to make provision for the care and disposition of the *lands or other property* belonging to the United States.

I accord fully with the views of a late distinguished Senator, (General Cass,) as expressed in his letter to Mr. Nicholson, from which the following are extracts:

"*Territory* is here classed with property, and treated as such; and the object was evidently to enable the General Government, as a property-holder—which, from necessity, it must be—to manage, preserve, and '*dispose of*,' such property as it might possess, and which authority is essential almost to its being. But the lives and persons of our citizens, with the vast variety of objects connected with them, cannot be controlled by an authority which is merely called into existence for the purpose of making *rules and regulations for the disposition and management of property.*"

"But certain it is, that the principle of interference should not be carried beyond the necessary implication which produces it. It should be limited to the creation of proper governments for new countries, acquired or settled, and to the necessary provision for their eventual admission into the Union; leaving, in the mean time, to the people inhabiting them, to regulate their internal concerns in their own way. They are just as capable of doing so as the people of the States; and they can do so, at any rate, as soon as their political independence is recognized by admission into the Union. During this temporary condition, it is hardly expedient to call into exercise a doubtful and invidious authority, which questions the intelligence of a respectable portion of our citizens, and whose limitation, whatever it may be, will be rapidly approaching its termination."

The absence of any grant of power to Congress to legislate for the domestic regulation of Territories, is so obvious, that those who contend for the right are driven to look for it in the history of national legislation. This has not been either uniform or consistent, as will appear by the history of the organization of the Territories of Wisconsin and Iowa.

In organizing a Territorial Government for the Territory of Wisconsin, Congress reënacted the restrictions contained in the ordinance of 1787, which prohibited the introduction of slavery into the territory northwest of the river Ohio; but in organizing a Territorial Government for the Territory of Iowa, which lies west of the Mississippi, and is a part of the Louisiana purchase, and therefore not subject to the ordinance of 1787, even by implication, the slavery restriction was not included. And yet, by natural laws, which, after all, must mainly control the question, it was a free Territory, and is a free State. A reference to the laws organizing these Territorial Governments will fully establish this position.

The bill organizing a Territorial Government for Iowa was passed during Mr. Van Buren's administration—was the only one passed during that administration—and Congress has passed no law organizing a Territorial Government since. It received the "solemn" approval of President Van Buren, at a time when "free soil" was as important to the Union as now, and may well be received by those who make this requisite an "inseparable article of their creed" as a model bill for the organization of all our Territories lying west of the Mississippi, however acquired. It practically recognized the doctrine of non-interference, for which I now contend; and the institutions it has established show how much more potent for good are natural laws, than the workings of spurious benevolence, or the efforts of officious legislation.

The distinguished individual under whose administration this bill was perfected, has recently broken the monotony of retirement, evidently found to be no more agreeable than it was voluntary, and has entered the crusade of mock benevolence, by clamoring for national legislation in the domestic concerns of the people of the Territories. By way of correcting the public judgment, and of furnishing a common northern touchstone of proviso faith, he has consented, *reluctantly* doubtless, to issue a new and revised edition of opinions upon this vexed question, in the form of a letter, which, considering the source, and the object designed, is entitled to a passing notice. While I shall not deny his right to sting to the heart the great and generous party which warmed him into life; to betray the hand that had nourished and upheld him; to blot out the records of his own fame, and blacken through all time the recollections associated with his name and history,—he should not be permitted to misstate the proceedings he invokes, or to interpolate for the occasion provisions not there contained. It is not a matter of either personal or local moment. It concerns the whole people of the Confederacy and the integrity of the Union. This attempt to foster agitation upon a subject rife with danger and of fearful interest, and to raise up a sectional party—by one, too, who has shared so largely in the honors of his country, conferred on him by a common hand—demands an examination before the people of the Union, that they may determine whether it is induced by considerations of duty, or is the malign influences of long-cherished revenge.

In the communication alluded to, in speaking of the power of Congress over slavery in the Territories and in the District of Columbia, he says:

"The question of power is certainly as clear in respect to the Territories as it is in regard to that District; and as to the Territories, my opinion was also made known in a still more solemn form, by giving the Executive approval required by the Constitution to the bill for the organization of the Territorial Government of Iowa, which prohibited the introduction of slavery into that Territory."

The opinion expressed, that the "power to dispose of, and make all needful rules and regulations respecting," the property of the United States, confers the same powers of legislation over persons that an express grant authorizing "exclusive legislation" does, is entitled to all the weight it can gain from an able and experienced, but disappointed and resentful statesman. But as we can all read the act in question, and the proceedings in relation thereto, if his statements of its provisions are found to be erroneous, his superstructure will fall with his foundation.

A moment's reference to the law, as approved by him, will clearly establish the fact, that "the bill for the organization of the Territorial Government of Iowa" *did not*, as he asserts in his letter, prohibit the introduction of slavery into that Territory, or anything of the kind.

As I have before stated, the bill organizing a Territorial Government for Wisconsin did, in ambiguous language, contain such prohibition. It is contained in a clause of the twelfth section of that act, which reads as follows:

"SEC. 12. *And be it further enacted*, That the inhabitants of the said Territory shall be entitled to enjoy all and singular the rights, privileges, and advantages, granted and secured to the people of the territory of the United States, northwest of the river Ohio, by the articles of the compact contained in the ordinance for the government of the said territory, passed on the 13th day of July, 1787; *and shall be subject to all the conditions and restrictions and prohibitions in said articles of compact imposed upon the people of the said Territory.* The said inhabitants shall also be entitled to all the rights, privileges, and immunities, heretofore granted and secured to the Territory of Michigan, and to its inhabitants, and the existing laws of the Territory of Michigan shall be extended over said Territory, so far as the same shall not be incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed by the Governor and Legislative Assembly of the said Territory of Wisconsan; and further, the laws of the United States are hereby extended over, and shall be in force in said Territory, so far as the same, or any provisions thereof, may be applicable."

The "*conditions and restrictions and prohibitions*," in the ordinance enacted in the foregoing section of the Wisconsin territorial bill, are supposed to contain the prohibition against slavery. The twelfth section of the bill organizing a Territorial Government for Iowa, reads as follows:

"SEC. 12. *And be it further enacted*, That the inhabitants of the said Territory shall be entitled to all the rights, privileges, and immunities, heretofore granted and secured to the Territory of Wisconsin, and to its inhabitants; and the existing laws of the Territory of Wisconsin shall be extended over said Territory, so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed by the Governor and Legislative Assembly of the said Territory of Iowa; and further, the laws of the United States are hereby extended over, and shall be in force in, said Territory, so far as the same, or any provisions thereof, may be applicable."

I read both sections entire. It will be seen, that in the latter section, the clause enacting the "*conditions and restrictions and prohibitions*" of the ordinance of 1787, which includes the slavery prohibition in the *Wisconsin bill*, does *not* appear in the *Iowa bill*.

It will scarcely be contended by any lawyer or statesman, that granting to a community "*rights, privileges, and immunities*," imposes "*restrictions and prohibitions.*" Congress certainly did not so understand it in enacting the Wisconsin bill; for, after granting the "immunities," they enacted the "restrictions." It could not have been necessary to negative the "restrictions" in the Iowa bill by saying that they were not intended to be imposed. The failure to insert was all that was necessary. Had Congress designed to impose the same "conditions, restrictions, and prohibitions" in the Iowa bill as were contained in the Wisconsin bill, they would have been placed there *in express terms*. The proposed proviso in the Oregon bill contains, in express terms, the prohibitory clause, as will be seen by the 12th section as reported by the House committee, which reads as follows:

"That the inhabitants of said Territory shall be entitled to all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory, passed on the 13th day of July, 1787; *and shall be subject to all the conditions and restrictions and prohibitions in said articles of compact imposed upon the people of said territory.*"

It may be urged that the provision extending the then existing laws of Wisconsin over the Territory of Iowa carried with it the slavery restriction. The laws there referred to were the local laws which had been enacted by the Territorial Government of Wisconsin. This is evident from the fact, that they were subject to alteration, modification, or repeal by the Governor and Legislative Assembly of Iowa, and could not have contained "unalterable" or "fundamental" provisions. The same clause appears in the Wisconsin bill extending the existing laws of the Territory of Michigan over that Territory. The bill establishing a Territorial Government for Iowa does not anywhere make that Territory subject to the provisions of the *law* establishing the Territorial Government of Wisconsin. Each Territory has a law providing for its own organization, separate from, and independent of, each other.

Thus much for the prohibition of slavery, or rather the *failure* to prohibit it, in the establishment of a Territorial Government for Iowa, under the "solemn" supervision of President Van Buren.

But let us pursue this territorial bill a little further, and see whether the precedent established by him in the erection of the Territory of Iowa is not, in effect, the same system which he now so strongly denounces. The 6th section of that bill reads as follows:

"SEC. 6. *And be it further enacted, That the legislative power of the Territory shall extend to all rightful subjects of legislation;* but no law shall be passed interfering with the primary disposal of the soil, no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws of the Governor and Legislative Assembly shall be submitted to, and if disapproved of by the Congress of the United States, the same shall be null and void."

By this section it will be seen, the legislative power of the Territory was extended to "*all rightful subjects of legislation.*" It provides, however, that no law shall be passed interfering with the primary disposal of the soil; that no tax shall be imposed upon the property of the United States, and that the property of residents and non-residents shall be taxed alike; but there are no "*conditions, restrictions, or prohibitions*" in regard to slavery. It is silent upon the subject. The only power reserved to Congress over the legislation of the Territory, is contained in the last clause of the section I have just read; and to make that effectual, it requires the concurrent, affirmative action of both Houses of Congress, disapproving the laws passed by the Territorial Legislature, in order to nullify or make them void. They require no sanction by Congress to make them valid; they are effectual without it, and only void when declared so. With the exception of the latter clause of the 6th section, just referred to, the Iowa territorial bill, signed and approved by Mr. Van Buren, furnishes, in effect, precisely the platform, as I understand it, which is proposed by the letter of General Cass upon the subject of the organization of Territorial Governments—*the policy of non-interference.*

Slavery or anti-slavery has, practically, little to do with the proposed attempted restriction. Whatever may be said or pretended, or by whomsoever put forth, the question is not between slavery and freedom, or, in effect, whether the aggregate of slavery shall be increased, nor whether the insti-

tution shall be extended over a wider surface, for all this will finally be determined by other powers than Congress; but it is, whether profitless agitation shall be encouraged, and one people attempt to legislate for another, until one section of the Union shall be arrayed in hostile feeling and sympathy, and, finally, in overt action, against the other.

I would, then, Mr. Chairman, in the bills organizing all future Territorial Governments, as was done in the Iowa bill, make no allusion whatever to the subject of slavery. I would, also, as was done in that bill, confer upon the local Legislatures of the Territories the power to legislate in regard to all "*rightful subjects of legislation.*"

Then, sir, if any question should arise, let the Supreme Court of the United States decide what matters, under the Constitution of the United States, are "*rightful subjects of legislation.*"

What is the effect of this position? If neither Congress nor the people of the Territories have the right or the power, under the Constitution, to legislate upon the subject of slavery in a Territory, as is contended by some, then the Supreme Court of the United States, whose duty it will be ultimately to decide and settle this question in any aspect in which Congress can put it, would decide that "*all rightful subjects of legislation*" with which the Territorial Legislature had been clothed, did not include the subject of slavery. If, on the other hand, the Court should hold that the Constitution does confer upon Congress the power to legislate for the Territories in regard to the question of slavery, Congress will have conferred that power upon the Territorial Legislature, chosen by the people of the Territory—in whose hands, in my judgment, it is the most safe and most consistent with the principles of the Constitution and of self-government, it should be lodged. Upon this principle, as a northern Democrat, I am prepared to stand. I believe it is no broader than the one upon which the Democratic party has ever stood, and must ever stand, if it would be national in its objects and its influences.

The northern Democracy have been reared in a school which has ever taught the principle of non-interference with questions of slavery by the General Government. That principle has ever been regarded as one of the cardinal doctrines of the Democratic faith; and they will not abandon it now because those they have honored have proved false and faithless. The Republican party, from time to time, through its regular organizations, by its leading and most distinguished men, and by the votes of its members of Congress in both branches of our National Legislature, and in every conventional form imaginable, has again and again asserted this principle, in the most solemn and emphatic manner. It has repeatedly been sanctioned by the popular voice of the country. Not only has that great national party, to whose hands are committed the destinies of this Republic, professed to adhere sacredly to the compromises of the Constitution, and asserted the principle of non-interference, but it has at all times deprecated and denounced all external anti-slavery and abolition agitation, as hostile to the best interests of the country. Such has ever been its position—such I believe to be its position now; and conscious of its own integrity, it will, I trust, continue to stand firmly by the same broad, national principles—consecrated by repeated conflicts and repeated triumphs—"regardless of lamentations here or elsewhere."

Since precedents are so much the order of the day, I will so far follow this, as to appeal from Mr. Van Buren as he now stands before the country, the candidate of a mere faction, to Mr. Van Buren when he was the candidate of the Democratic party, and ask those who hear me to mark the difference.

In 1835, Mr. Van Buren, then the candidate of the Democratic party, in a letter to Mr. Amis and others, of North Carolina, held the following language in relation to the question of slavery. He said:

"That all such interference, which tends to alienate one portion of our countrymen from the rest, deserves to be frowned upon with indignation by all who cherish the principles of our revolutionary fathers, and who desire to preserve the Constitution by the exercise of that spirit of amity which animated its framers."

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"That whilst they [the northern Democracy] would maintain inviolate the liberty of speech and the freedom of the press, they considered discussions, which, from their nature, tend to inflame the public mind and put in jeopardy the lives and property of their fellow-citizens, at war with every rule of moral duty, and every suggestion of humanity; and would be constrained, moreover, to regard those who, with a full knowledge of their pernicious tendency, persist in carrying them on, as disloyal to the Union."

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"That the people of the South would do great injustice if they allow themselves to believe that the few who are interfering with the question of slavery, are acting in accordance with the sentiments of the North upon the subject."

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"*I must go into the Presidential chair the inflexible and uncompromising opponent of any attempt on the part of Congress to abolish slavery in the District of Columbia, against the wishes of the slaveholding States.*"

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"I do therefore believe that the abolition of slavery in the District of Columbia, against the wishes of the slaveholding States, (assuming that Congress has the power to effect it,) would violate the spirit of that compromise of interests which lies at the basis of our social compact; and I am thoroughly convinced that it could not be so done, without imminent peril, if not certain destruction to the union of the States."

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"With only a generous confidence on the part of the South in their brethren of the North, and a firm determination on the part of each to visit, with their severest displeasure, any attempt to connect the subject with party politics, those sentiments cannot be overthrown. All future attempts on the part of the Abolitionists to do so, will then only serve to accumulate and concentrate public odium on themselves. That there are persons at the North who are far from concurring in the prevailing sentiment I have described, is certainly true; but their numbers, when compared with the rest of the community, are very inconsiderable."

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"In every view of the subject, therefore, it does appear to me, that although there certainly is, in the present condition of the country in relation to it, sufficient to excite the most serious attention, there is nothing in the state of public opinion in the United States to justify that panic in the public mind, which invariably disqualifies those who partake of it from dealing wisely or successfully with the circumstances by which it is produced. From abroad we have, I think, some right to expect less interference than heretofore. We shall, I am confident, for some time at least, have no more foreign agents to enlighten us on the subject. Recent results here, and the discussions with which they have been attended, cannot fail to attract the attention of the reading and reflecting portion of the foreign public. By these means they will be made to understand our real condition in this respect; and they will know that the unchangeable law of that condition is, that *the slave question must be left to the control of the slaveholding States themselves, without molestation or interference from any quarter;* that foreign interference of every description can only be injurious to the slave, without benefit to any interest, and will not be endured by any section of our country; *and that any interference coming from the non-slaveholding portions of our own territory, is calculated to endanger the perpetuity, and, if sanctioned by the General*

Government, would inevitably occasion the dissolution of our happy Union."

In order to give additional assurance of his adherence to the doctrine of non-intervention, as professed by the Democratic party, upon his inauguration as President, with the oath of office warm upon his lips, so eager was he to signalize his devotion to what is now denominated the slave power, that he volunteered the declaration to the American people, that acting as the Chief Magistrate of the nation, he would interpose the Executive veto to any bill which Congress might pass against the wishes of the slaveholding States, abolishing slavery in the District of Columbia, because it "would violate the *spirit* of that compromise of interests which lies at the basis of our 'social compact.'" This is believed to be the first, and it is hoped it may be the last, official decision of an important subject, by a high functionary, before the question had arisen.

It was during his administration that the celebrated Atherton resolutions passed the House of Representatives. And since the history of Congressional action has recently been made to fill so large a space in upholding proviso agitation, it may not be out of place to cite a few of the many instances where similar agitation has been pointedly condemned by those who are now foremost in producing it.

The Atherton resolutions were passed during the winter of 1838, under the following circumstances, as stated in a recent number of the Washington Union:

"The agitation of the subject of slavery in the non-slaveholding States, and by a portion of their representatives in Congress, had about that time become very fierce; so much so, that the South had become very much irritated, and the friends of the Union were becoming alarmed for its safety. The favorite mode of this agitation was by petitions to Congress for the abolition of slavery in the District of Columbia and the Territories, and for the abolition of the internal slave trade, as it was called. To quiet the public mind, and to put an end as far as possible to this dangerous agitation, it was thought expedient by the Democratic party, at that time, to make a solemn declaration of their views of the subject; and Mr. Atherton, of New Hampshire, a warm friend of Mr. Van Buren, the then President, was selected to offer the resolutions containing them. Those resolutions are in the following words:

"1. *Resolved*, That this Government is a Government of limited powers; and that, by the Constitution of the United States, Congress has no jurisdiction whatever over the subject of slavery in the several States of this Confederacy.

"2. *Resolved*, That petitions for the abolition of slavery in the District of Columbia, *and the Territories of the United States*, and against the removal of slaves from one State to another, are a part of a plan of operations set on foot to affect the institution of slavery in the several States, and thus indirectly destroy that institution within their limits.

"3. *Resolved*, That Congress has no right to do that indirectly, which it cannot do directly; and that the agitation of the subject of slavery in the District of Columbia, or the Territories, as a means and with the view of disturbing or overthrowing that institution in the several States, is against the true spirit and meaning of the Constitution, an infringement of the rights of the States affected, and a breach of the public faith upon which they entered into the Confederation.

"4. *Resolved*, That the Constitution rests on the broad principles of equality among the members of this Confederacy, and that Congress, in the exercise of its acknowledged powers, has no right to discriminate between the institutions of one portion of the States and another, with a view of abolishing the one and promoting the other.

"5. *Resolved, therefore*, That all attempts on the part of Congress to abolish slavery in the District of Columbia *or the Territories*, or to prohibit the removal of slaves from State to State, or to discriminate between the institutions of one portion of the Confederacy and another, with the views aforesaid, are in violation of the Constitution, destructive of the fundamental principle on which the Union of these States rests, and beyond the jurisdiction of Congress; and that every petition, memorial, resolution, proposition, or paper, touching or relating in any way, or to any extent whatever, to slavery as aforesaid, or the abolition thereof, shall, on the presentation thereof, without any further action thereon, be laid upon the table, without being debated, printed, or referred."

That these resolutions received the approbation and sanction of Mr. Van Buren and his particular friends, including Mr. Wright, is well known to the country. Among the names recorded in favor of their passage, are those of C. C. Cambreleng, Gouverneur Kemble, Arphaxad Loomis, and others.

It was during the same winter that a series of resolutions similar to the Atherton resolutions were passed by the Senate of the United States, and the names of Silas Wright and John M. Niles may be found recorded in their favor.

On the 12th day of June, in this same memorable year 1838, the principle of non-interference was again recognized and asserted by Mr. Van Buren, to use his own language, in "a solemn form, by 'giving the Executive approval required by the 'Constitution to the bill for the organization of the 'Territorial Government of Iowa," which, as I have already shown, contained no provision or "prohibition" in regard to slavery.

Again, at the Convention which nominated Mr. Van Buren for a reëlection in 1840, a platform for the Democratic party on this vexed and disturbing question was carefully prepared by Mr. Wright, or under his direction, and was unanimously adopted by that Convention.

As the Democratic party has continued to adhere to the same opinions down to the present moment, readopting the same platform at the Convention which nominated Mr. Polk, and again adopting it at the late National Convention which nominated Cass and Butler, I will take the liberty to read it. It is contained in the 7th subdivision of the 3d resolution, and reads as follows:

"7. That Congress has no power under the Constitution to interfere with or control the domestic institutions of the several States, and that such States are the sole and proper judges of everything appertaining to their own affairs, not prohibited by the Constitution; *that all efforts of the abolitionists or others made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend of our political institutions.*"

In the winter of 1844, a resolution in precisely the same language was adopted by the House of Representatives, by a vote of 128 ayes to 23 noes. Among the names recorded in the affirmative, I find John P. Hale, Preston King, George Rathbun, Joseph H. Anderson, Charles S. Benton, Lemuel Stetson, Horace Wheaton, and others. (House Journal, pp. 479, 480.) These gentlemen then, upon their oaths of office, declared that "*all attempts to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend of our political institutions.*"

Again: during the same session, but before the meeting of the Baltimore Convention in May, 1844, it will be found that these gentlemen, whose "free soil" benevolence separated them from the Democratic party because it refused to adopt the Wilmot

proviso as the corner-stone of its faith and an "inseparable article of its creed," themselves voted to lay upon the table, without even a reference, a petition, couched in respectful language, coming from citizens of New York, *praying Congress to extend the ordinance of* 1787 *over our territory lying west of the Mississippi river—in effect, asking Congress to extend by law over that territory this same Wilmot proviso.*

Laying petitions upon the table without a reference is the most emphatic, not to say contemptuous, mode of repudiating and rejecting the prayer of the petitioners known in parliamentary proceedings.

It was laid upon the table by a vote of 118 ayes to 61 noes.

Among the names recorded in favor of laying the petition on the table, I find John P. Hale, Preston King, George Rathbun, Charles S. Benton, Joseph H. Anderson, Lemuel Stetson, and others. (House Journal, pp. 341, 342.)

Such, sir, was the position of Mr. Van Buren and his friends "*par excellence*," until the spring of 1844. Did a Democrat, however humble, falter in sustaining these views to the most extreme point, he was at once denounced, by these now professed "free-soil" patriots, as faltering in the support of Democratic doctrines. I well remember the cry raised by these "free-soil" pretenders, who then, as now, surrounded and formed the body-guard of Mr. Van Buren, against the Hon. Samuel Beardsley, of New York, because, when a member of this House, he resisted and voted against the adoption of the twenty-first rule, which prohibited the reception of abolition petitions—Mr. B. contending that the best mode to quiet all excitement was to receive the petitions and report strongly against them. And for this he was assailed in the bitterest terms of invective, by those who now make slavery agitation the corner-stone of their faith. Down to the assembling of the Baltimore Convention in 1844, "no men were more exact than they in the observance of the 'compromises of the Constitution.' Abolition petitions, abolition movements, abolition agitations, and all the varied forms of combination, affinity, and alliance between Abolitionism and the Whigs or Federalists,—were scouted, condemned, denounced, voted against, and defeated, in every aspect in which they presented themselves. The invaders of the 'constitutional rights of the South' were the objects of marked and high-toned scorn and denunciation, and charged with a design no less than to embody, with mad incendiarism, sectional and geographical divisions; to alienate one portion of the States from the other, upon ground declared against by the Father of his Country; and finally, to rend the Union asunder."

With the results of the Baltimore Convention of 1844, however, "a change came o'er the spirit of their dream." Being disappointed in their candidate, their resentments have proved stronger than their principles.

Had Mr. Van Buren been nominated and elected in 1844, does any one believe he would have listened for a moment to a proposition incorporating the Wilmot proviso upon the Democratic creed? or that the "free-soil" movement would ever have been heard of? or, if heard of, regarded beyond the agitation of the fanatic? He would have spurned it with indignation, as an assault upon the compromises of the Constitution, upon the institutions of the South, and upon the integrity of the Democratic party. Had these new territorial bills, upon which we shall soon be called upon to act, come up for consideration, and the Wilmot proviso been offered to be ingrafted upon them, would he not have pointed us to the Iowa bill as a model bill, "solemnly approved" by him in 1838, as containing the true republican doctrine —*non-interference?* Would he not have said to the South in his most courtly manner, "*Your rights shall not be invaded*"—"*the compromises of the Constitution shall be faithfully adhered to?*"

The reasons for his rejection by the Convention of 1844, as given under his own hand in his recent letter, are as follows:

"Having been defeated during a highly excited, and as the result has shown, an unsound state of the public mind, for adhering to a financial policy which I believed to be right, the Democratic masses everywhere, as soon as it became evident that the country had recovered from the delusions of the day, resolved, with extraordinary unanimity, that the policy which had been so successfully decried should be vindicated, and the justice of the people illustrated by my reëlection. This decision of the masses was reversed by their representatives in the Convention. More than compensated for any mortification which my discomfiture in 1840 had occasioned, by these expressions of confidence and regard, proceeding directly from the people themselves, and anxious above all things for the success of the measures for which I had been so unsparingly arraigned, I forebore to scan either the motives by which my opponents in the Convention of 1844 were actuated, or the means they resorted to for the accomplishment of their object," &c.

This very extraordinary censure, both of the motives and conduct of those who ventured to prefer another over him for the Chief Magistrate of the nation, demands a passing notice. Let us for a moment look at the history and the causes of his rejection, and see whether his charge against the Democracy of the nation is well-founded, or is the offspring of a morbid imagination.

Long before the assembling of the Baltimore Convention, it was apparent that the question of the reannexation of Texas to this Union would form an important element in the then approaching canvass, and leading statesmen were beginning to take ground upon the subject. It was justly regarded as a question of great importance, and its effect upon the politics and parties of the country was a problem, in the opinion of many able and astute statesmen, difficult of solution. At this time it was regarded as virtually settled that Mr. Van Buren and Mr. Clay would be the opposing candidates of the two great political parties for the Presidency. Each being satisfied with his position, and being unwilling to disturb it by the introduction of any new element; by a mutual understanding, as has been confidently asserted, and never to my knowledge denied, each declared himself to the country opposed to the measure. The effect upon each proved fatal. But it operated in different ways: one was quietly put aside by his *party*, the other was rejected by the *people*.

But nothwithstanding the pronunciamentos of the two "great rejected" gentlemen referred to against this great American measure, and the old stalking-horse of demagogues—slavery—which was then, as now, paraded, discussion only tended to confirm the opinions of the people in its favor, and the Democracy of the country began to look to it as one of most powerful elements of success in the then approaching canvass. A pamphlet from the pen of the present Secretary of the Treasury, written in that masterly and vigorous style which ever distinguishes his productions, exerted a most powerful influence upon the public mind; and although

Mr. Van Buren, always of doubtful popularity with the masses, but strong with the politicians of the country, by such means as a long life of almost uninterrupted success had placed at his disposal, aided by a visit through more than half the States of the Union, was known to have secured a majority of instructed delegates in favor of his nomination; yet, before the assembling of the Convention, indications not to be mistaken coming up in thunder tones from the masses, warned the party leaders of the danger of again placing him before the country for its suffrages. But that warning voice was not uttered against the nomination of Mr. Van Buren solely because he had taken ground against the admission of Texas. Other causes operated powerfully to defeat him. "Coming events cast their shadows before" in the results of the elections which had then recently been held in Connecticut, New York city, and Virginia. He had, moreover, never enjoyed the hearty and cordial good feeling of the masses. He had wrought out Democratic results as the mathematician solves his problems, and not by his impulses. He was regarded as cold, calculating, and selfish. He had once been defeated, notwithstanding the most superhuman effort had been put forth by the Democracy to save him, and the twelve electoral votes he received from the twelve millions of northern freemen he so much eulogizes in his recent letter, shows the estimation in which they then held him. It was the fearful looking for of another defeat equally disastrous, and the consequent prostration of the Democratic party and its principles, which had been placed in such imminent peril by the elections of 1840, and which seemed to have been saved as it were by the interposition of Providence—it was *this* that nerved the arms and stayed up the hands of those who dared to assert and maintain the republican doctrine, without which republican principles would perish—"*everything for the cause, nothing for men.*"

That voice, coming up to the Convention like the voice of many waters, was heeded. The success of the party and its glorious principles were regarded as of higher importance than the advancement of the personal interests of any man or set of men. It was not because the Convention or the party desired the overthrow or elevation to power of any particular interest, that it was regarded as indispensable that Mr. Van Buren should stand aside; for it is a well-known fact that the Convention would have nominated Mr. Wright, his devoted personal friend, had he not forestalled the action of the Convention by unequivocally and unconditionally declining in advance. *Success* with men who would carry out its principles, was all the party desired. The alternative was presented—Mr. Van Buren and certain defeat, or a new man and certain success. The latter alternative was taken. It operated upon the party like an act of emancipation. The result of the election is matter of history.

Has any man ever dreamed, in the wildness of fancy, that Mr. Van Buren would have been elected if nominated? I do not believe a hundred men can be found in the country, who had so mistaken the signs of the times, or become so infatuated, as to believe for a moment that he stood any chance of an election, and I know those who were among his best and most devoted friends, who afterwards conceded that his defeat would have been certain.

But, however just the conclusion of the Convention, and patriotic the motives that governed its action, its failure to nominate Mr. Van Buren gave mortal offence to him, and to all the "House of Bourbon" in New York, and is the *secret, primary,* MOVING—may I not almost now say, the AVOWED—cause of their defection and abandonment of the Democratic party.

Sir, it is *the* cause. All other pretended causes of discontent are its mere developments. The Wilmot proviso, concocted and thrown into Congress for the express purpose of embarrassing the Administration in the prosecution of a just war, is one of them; and in order to make that available for their disorganizing purposes, the leaders of this new-fledged abolitionism are compelled to resort to the most shameless misrepresentations.

Sir, the professed Democrat, who, standing up here or elsewhere, utters the assertion that the Northern Democracy who adhere to the principles, usages, and nominations of the Democratic party, are, *anywhere*, in favor of extending slavery, utters what he must know to be a base slander against that Democracy, for which he deserves the scorn and detestation of every honorable man. The Northern Democracy are nowhere in favor of extending slavery. They have not been asked to aid in its extension. They will not be. No such proposition is before Congress or before the country; and he who deceives any honest voter into the abandonment of long-cherished political associations by such a pretence, will be guilty of a fraud for which he must answer at the bar of his own conscience, and to his God. The Democratic party, upon this question, stands where it has ever stood. It occupies no new position. It has taken no new ground.

Sir, I have no faith in the sincerity of this pretended conversion to "freedom" of men who have so long signalized their devotion to the South. I believe it to be the sheerest hypocrisy. With the leaders of this new movement, the cry of "*free soil, free labor, and free men,*" are the mere catchwords of demagogues. Can any dispassionate mind doubt this? Look at their first Utica Convention, when, with "free soil" upon their lips, they virtually nominated for the Presidency a large slaveholder—a man whose every interest is identified with the South; and it is a well-known fact, that a large majority of that Convention were in favor of a formal nomination of General Taylor, and were only deterred from nominating him by the determined resistance of the more sagacious of the leading spirits, who doubted the policy of exposing to the world, at that early day, their hollow-hearted hypocrisy. Another reason also operated with the knowing ones, to prevent his nomination. They had another candidate in their eye. The hope was entertained, and, as subsequent developments have clearly shown, acted upon, that by threats of disunion and distraction to the party, they might drive the Baltimore Convention to nominate Mr. Van Buren. The fact is now made matter of history by the publication of Mr. Van Buren's recent letter, in which he says:

> "A friendly application from our delegates to the last Baltimore Convention for authority to use my name as a candidate, if they could do so under proper circumstances, made it, as you appear to be informed, my unpleasant duty to refuse my consent to their doing so under any circumstances."

No doubt it gave Mr. Van Buren great pain to refuse so reasonable a request, and the country will place all the confidence in the sincerity of his

refusal which, under the circumstances, it deserves, since his acceptance of a nomination for the same high office, from a disorganizing faction in a single State; but who now doubts, had the "proper circumstances" arisen by the admission of *his delegates*—yes, sir, emphatically *his delegates*—to the exclusion of the *regular* delegation chosen by the Democracy of the State,—who doubts, I repeat, that *his delegates would* have brought forward his name; and that, had the Convention been pleased to nominate him, he would have accepted the nomination, and that, too, upon the platform there laid down? And then, sir, the Wilmot proviso would have been handed over to the Abolitionists and Whigs, and abandoned to its fate. The whole thing would have been whistled down the winds. They would have declared, as did Mr. Cambreleng at Baltimore, that they had not desired nor intended to make it a test question; and they would have proved it by their proceedings at Utica; for they there declared both ways, in order to meet any possible contingency. Down to the assembling of the Baltimore Convention, it will be recollected by the whole country that Mr. Van Buren the elder had studiously kept his opinions upon this subject a profound secret, so far as the public were advised, although it was more than suspected that he secretly favored the incendiary and disorganizing course of his family and friends under his immediate influence. In his letter to a citizen of Pennsylvania, he made no allusion whatever to the subject of the proviso. But since the results of the Baltimore Convention have transpired, the proper circumstances not arising there to bring him forward as a candidate, he has come forth from his concealment, and at a single bound—so intolerable no doubt were his sufferings—outstripping his erratic son, he has leaped into the front rank, and now forms the VAN-guard of a faction, whose movements it is now evident his hand has heretofore guided in secret, and whose only object since its first incipient stages of formation has been, in a spirit of revenge, to *ruin*, if it could not *rule*, the Democratic party.

Let no Democrat be deceived as to the *object* of Mr. Van Buren and his friends, in their disorganizing movements. Whatever specious disguise may be thrown around them—whatever pretence may be put forth—whatever "free soil and free labor" song may be chanted, the *design*, the *end* hoped to be attained, is the defeat and prostration of the Democratic party. Viewing Mr. Van Buren in his present position, as the head, embodiment, and candidate of a faction—a faction based upon the dark spirit of abolition and anti-slavery agitation, which he has so often deprecated and denounced—and contrasting it with his position in 1843, when he gave the following pledge and assurance to that great party he now seeks to destroy, who can doubt that he is capable of playing out the game of defection so shamelessly commenced at any sacrifice of fame or country? Standing on national ground, he then held the following language:

"*My name and pretensions, however subordinate, shall never be at the disposal of any person whatever, for the purpose of creating distraction or division in the Democratic party, and every attempt to use them for such a purpose,* WHENEVER *and* WHEREVER *made, shall be arrested by an interference on my part, alike prompt and decisive. I regard the Presidency as the highest and most honorable of political distinctions, but it is only as the* UNDOUBTED AND FREE-WILL OFFERING OF THE DEMOCRACY OF THE NATION *that I would accept it.*"

If Mr. Van Buren had remaining one elevated sentiment, one patriotic emotion—if he were not *utterly, hopelessly* fallen—if he were not willing to see disaster befall this glorious Union, and to riot in his country's desolation, would he not redeem the pledges thus solemnly made? Would he not say to his followers, that peace must reign in the Democratic ranks? But who can fathom man's depravity, or the depths of infamy to which he is capable of descending, when disappointed ambition excites to madness a spirit of revenge? To accomplish their designs, and carry out their unholy purposes, these desperate men are willing, not only to sacrifice all the great Democratic measures which have carried the country forward to such unexampled prosperity, *but to assail the integrity of the Union itself.*

Sir, they have invoked the name of Silas Wright to favor their unhallowed schemes. Let Silas Wright be their judge. I ask for them no deeper condemnation than that to which he has consigned them:

"Let us (says he) cling to the Constitution and the UNION as the surest and most efficient mode of promoting the cause of liberty in our own country and throughout the world."

"If there be those among us who, misled by a mistaken sympathy, or by sudden excitement upon any subject, are forgetful of their obligations to the whole country, to the Constitution and the Union, let us use every effort of persuasion and example to awaken them to a sense of their dangerous error. If those who, for the sake of private interest, *personal ambition*, or momentary *political success*, are willing to experiment upon the public passions, to treat lightly their constitutional obligations, to foment sectional jealousies, and raise up geographical distinctions within the Union, let the absence of our countenance and support convince such that the *personal gratification* or *public services of any living man* are not objects of sufficient magnitude to be gained at the expense of the harmony of the country, the *peace of the Union*, or a single letter in the list of our constitutional duties.

"If among us there be any (which Heaven forbid!) who are prepared, for any earthly object, to dismember our Confederacy, and destroy that Constitution which binds us together, LET THE FATE OF AN ARNOLD BE THEIRS, and let the detestation and scorn of every American be their constant companions, *until, like him, they shall abandon a country whose rich blessings they are no longer worthy to enjoy.*"

Sir, I have an abiding confidence in the intelligence and integrity of the American people. That "peculiar sagacity which belongs to them will discover the real nature and the objects of these architects of ruin; they will see through the flimsy veil, the rabid carcass of selfishness; they will follow not the broken and scattered leaders, whose time has come and passed, but they will rally in their power and mighty majesty around the Democratic banner, unfurled by their representatives at Baltimore. They will sustain the nominations there made, as the best means of giving triumph to republican principles, and security to that Union which embraces in its magic circle the millions of freemen between the Atlantic and Pacific, the St. Croix and the Rio Grande, and perpetuity to that Constitution which guaranties equality to all the States."